

DRAFT

Cal/EPA Environmental Justice Action Plan SWRCB Klamath River Pilot Project Update May 31, 2007

- I. Lead Cal/EPA Board, Department or Office (BDO):** State Water Resources Control Board (SWRCB)
- II. Project Area:** The Klamath River water shed spreads in both Oregon and California. The following Tribes have lands or interests in the Klamath River Watershed:
- Hoopa Tribe
 - Karuk Tribe
 - Klamath Tribes (Klamaths, Modocs, Yahooskin)
 - Quartz Valley Indian Tribe
 - Resighini Rancheria
 - Yurok Tribe

The Klamath River basin is located in Siskiyou County in inland northern California, adjacent to the Oregon border. The Tribes that occupy the region have close ties to the Klamath River. The combined population of the Tribes according to the California Native American Heritage Commission is 12,411, of which 4,245 are under the age of 18. The median income of the Tribes is approximately \$26,875. The primary employment in Siskiyou County is retail trade and services. The unemployment rate of Siskiyou County is 10 percent.

- III. Background:** The Klamath River is a valuable ecological resource to the states of California and Oregon. The Klamath River is the foundation of Tribal culture, spirituality, subsistence, and traditional and contemporary economy. The Klamath River Basin also provides important spawning habitat for Chinook salmon and other fish species.

The Klamath River is in a state of decline where impaired flows, disease, toxic algal blooms and diminished habitat have led to the loss of fishery and have had a significant impact on the lives, economy, health and traditions of the Klamath River Tribes. The decline of the salmon fishery in the Klamath River has altered the diet of each of the tribes along the river and its tributaries. For example, traditional consumption of fish by the Karuk Tribe was historically estimated at 450 pounds per person per year, while in 2003, the Karuk Tribal persons consumed less than 5 pounds of salmon per person, and in 2004, less than half pound per person was consumed.

The decrease in abundance and availability of salmon and other traditional foods, may affect many diet-related illnesses among Native Americans including diabetes, obesity, heart disease, tuberculosis, hypertension, kidney troubles and strokes. These conditions may have resulted from the lack of nutrient content specific to traditional foods such as salmon, as well as from the decrease in exercise associated with fishing and gathering food. For example, the Karuk Tribe has an estimated diabetes rate of 21 percent, nearly four times the United States (US)

average and an estimated rate of heart disease of approximately 40 percent, three times the US average.

The degradation of the Klamath River fishery has led to adverse health affects, negative cultural impacts, poverty and hunger. Prior to contact with Europeans and the decline of the fisheries, the Hoopa, Karuk, and Yurok Tribes controlled a wealth of resources in what is now known as California. Today, these resources have been severely depleted and have adversely affected the standard of living of the Klamath Basin Tribes. This dramatic reversal is directly linked to the decline of the fisheries resource base.

The devastation of the resource base, especially the fisheries, is also directly linked to the disproportionate unemployment and low socio-economic status of Karuk people today. Before the impacts of dams, mining, and over fishing, the Karuk people subsisted off salmon year round for tens of thousands of years. Now poverty and hunger rates for the Karuk Tribe are amongst the highest in the State and Nation. The poverty rate of the Karuk Tribe is between 80 and 85 percent. The poverty rate is even higher for tribal members living in Siskiyou County (Norgaard 2005. Executive Summary).

The degradation threatens the very existence of these Tribes. Restoration and protection of use is essential to preserve the health and culture of the Tribes.

IV. Project Start Date: July 2005 (3rd Quarter).

Project Goals & Objectives: The purpose of this Project is to include Klamath Basin Tribal resources and knowledge in the data collection, documentation, and analysis of impacts to beneficial uses including the Native American cultural uses and subsistence fishing uses of the Klamath River and its tributaries. This data and analysis from this pilot project shall be used to support the Regional Water Board's Total Maximum Daily Load (TMDL) development and the SWRCB's consideration of the 401(a)(1) of the Clean Water Act (CWA) certification for the re-licensing process of hydroelectric projects on the Klamath River.

The project will collect data to provide support for:

- TMDL development
- Basin plan beneficial use analysis
- 401 certification analyses

The North Coast Regional Water Board (Regional Board) staff shall use this data to:

1. Update the beneficial uses information in the Regional Board Basin plan,
2. Assess the current status of these beneficial uses,
3. Identify activities and discharges of waste that impair these uses, and
4. Develop action plans that will ensure their restoration and protection.

The SWRCB shall use this data in consideration of the Klamath 401 certification analyses. Concurrent to the TMDL development and beneficial use analysis, SWRCB is reviewing the certification for the Klamath as part of the process of the re-licensing of the PacifiCorp

Hydroelectric Project. The Federal Energy Regulatory Commission (FERC) re-licensing process for power facilities located along the Klamath River provides a unique opportunity for the Water Boards to evaluate the environmental effects of these facilities. This review is an opportunity that only occurs in approximately every fifty-year period. The short and long-term impacts of the hydroelectric projects on cultural, commercial and sport fishing, ceremonial, and subsistence beneficial uses requires the gathering of data on the uses, exposure routes, and change in River water quality over time. The data gathered by the Klamath Tribes as part of this pilot project will assist the State and Regional Board in their certification analysis, water quality analysis and will provide information on cumulative impacts from the loss of the fishery on environmental, cultural and socio-economic health. This is the first analysis of cumulative impacts on social and cultural elements from environmental degradation undertaken by the SWRCB and the Regional Board. In addition, data gathering by Tribal members and the inclusion of this data in decision-making related to TMDL development, water quality analysis, and the certification required for re-licensing process of the Klamath dams affords true public participation of the Klamath Tribes in these processes and ensures that the data set reflects the conditions and exposure pathways of the parties most affected.

- V. Project Status:** The Regional Board has received exposure assessment reports from three of the five participating Tribes. Reports have been received from the Karuk, Quartz Valley, and Yurok Tribes.

The SWRCB has submitted the reports to the Regional Board for use in analyses related to beneficial use analysis and the development of TMDLs for the Klamath and its tributaries.

VI. Updates Regarding Related Water Boards' Activities

a. TMDL Development:

As noted above the Regional Board has received information for the exposure table from the Karuk, Quartz Valley, and Yurok Tribes. The Regional Board has also received narrative accounts of degradation of river water quality and effects on cultural beneficial uses from the Karuk, Quartz Valley, and Yurok Tribes. The Regional Board has incorporated this information into a draft Problem Statement for the Klamath TMDL report. The Regional Board plans to complete an agency review draft of the Problem Statement chapter by June 2007. The information that has been provided is sufficient for completion of this draft. One of the important reasons for completing this agency review draft is to get input from the Tribes on the draft cultural (CUL) use impairment write-up, which is part of the Problem Statement. The analyses prepared by the Karuk, Quartz Valley, and Yurok Tribes were received by the Regional Board's April 2007, deadline and will be incorporated into the agency review draft. Analyses received after the end of April (from the Hoopa and Resighini Tribes) will be incorporated into the public review draft, which is expected to be available around July 2008.

b. FERC Re-Licensing Process:

In March 2007, PacifiCorp withdrew and resubmitted their 401 certification application.

This action begins the one-year timeline for the SWRCB acting on their application. However, the 401 certification decision will not be finalized until California Environmental Quality Act (CEQA) documentation is completed, which is likely to take longer than a year. Information received from the Karuk, Quartz Valley, and Yurok Tribes has been provided to the SWRCB Water Rights staff working on the certification.

The Water Boards staff are working with the Tribes for which the reports are still being completed to assist in completion of their exposure assessments reports. Contracts for the remaining reports have been extended to provide additional time for completion. The Water Boards will schedule a meeting with the Pilot Project work group in the near future to discuss the information provided to the Regional Board and the SWRCB Water Rights Division to see if additional information or clarification is needed.